

MHR *Connections*

Published by the Manitoba Human Rights Commission

Volume 11 Number 1

January 2011

THE MANITOBA
HUMAN RIGHTS
COMMISSION



LA COMMISSION DES
DROITS DE LA PERSONNE
DU MANITOBA

www.manitoba.ca/hrc

Systemic Settlements can open doors and change policies

They may take longer to mediate, but systemic settlements at the Manitoba Human Rights Commission benefit many people and can be worth the wait.

"There is a common misconception that the Manitoba Human Rights Commission only deals with individual complaints with resolutions only benefiting that individual," says Executive Director Dianna Scarth. "This is not the case."

Ms Scarth says there are a number of examples of systemic settlements at the Commission. Some begin with an individual, while others start with a group complaint. Regardless of the way they begin, systemic settlements can change the lives of many people.



Betty stands next to her daughter in-law, Sherry who is holding Ashley. Next to her is Joey, Tammy's older brother, and beside him is Phil, Tammy's younger brother. Tammy is the middle child.

Only a few of these settlements receive media coverage, like the latest successful negotiations between the Alzheimer Society of Manitoba and the City of Winnipeg, which resulted in Handi Transit opening its doors to people with Alzheimer's and other forms of dementia. Other settlements receive much less publicity. Take for example a complaint filed by Betty Unrau and her

efforts to change a government policy regarding family members providing homecare.

Betty has always acknowledged her obligation as a parent. She says that her daughter Tammy is an important part of the family and she has never wavered in her determination to ensure that she continues to live at home.

Tammy is profoundly disabled and extremely vulnerable. She was healthy when she was born but within two months she developed a serious ear infection which brought her close to death. It has never been determined what happened to Tammy, but her condition is so severe that

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The Rights Connection by Dianna Scarth and Yvonne Peters The positive force of Sarah Lugtig

It has been said by friends and colleagues that one of Sarah Lugtig's core values is equality, which she consistently demonstrates in both her professional and community life. On January 21, 2011 she was the recipient of the Manitoba Bar Association's 2011 Equality Award.

After having clerked for The Honourable Madam Justice Claire L'Heureux-Dubé formerly of the Supreme Court of Canada (who remains one of her biggest fans), Sarah began her legal career in Manitoba as the Director of the Equality Rights Branch of the Court Challenges Program of Canada. Her desire to litigate human rights complaints brought her to the Manitoba Human Rights Commission in 2005. During the next five years she distinguished herself as a litigator, appearing before human rights tribunals and the Courts, including two interventions in the Supreme Court of Canada. Sarah is now with the Manitoba Government's Civil Legal Services.

One of the more notable human rights cases that Sarah successfully litigated, was the complaint of two female high school students who had been denied the opportunity to try out for their high school boy's hockey team. As important, was Sarah's forceful and articulate discussion in the media of the equality issues raised by the case, which eventually, greatly expanded the public's understanding and acceptance of the decision.

Sarah's creativity, perseverance, and persuasive ability resulted in systemic settlements that have had enormous impact on large groups of marginalized people, particularly persons with disabilities. For example, Sarah was instrumental in settling the complaint which resulted in the installation of audible traffic signals in Winnipeg.

And that's not all. She is a gifted teacher and for the last three years Sarah has taught Poverty Law at the University of Manitoba Law School. With her unique style Sarah encourages her students to go out into the community and meet with grassroots organizations.

And finally, Sarah has been a driving force in the development of the Legal Help Centre in Winnipeg.

The Manitoba Human Rights Commission congratulates Sarah. She has what every lawyer should aspire to: she has made, and continues to make, a positive difference in the lives of people.



Sarah Lugtig was nominated for the 2011 Manitoba Bar Association's Equality Award by Yvonne Peters, Vice Chairperson of the Manitoba Human Rights Commission, Professor Debra Parkes of the University of Manitoba, Dianna

Scarth, Executive Director, Manitoba Human Rights Commission and Madame Justice Colleen Suche.

In their nomination paper they wrote, "It is not surprising that Sarah has been referred to by a senior member of the Bar, who was directly involved in some of her human rights settlements, as a *positive force in the removal of systemic barriers to equality.*"

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she is unable to do anything for herself and is totally dependent upon another person for her care. She needs assistance with every aspect of her life, including a mechanical lift to move her anywhere in her home. She does not have the cognitive skills to make any decisions.

Tammy cannot ever be left alone. She does, however, communicate, through body language. Over the years Betty learned to appreciate the subtle ways her daughter has of conveying her needs.

Tammy was eligible for home care but because of her severe disabilities and the type of care she needs, Betty believed she could provide the best care for her daughter. She applied to be a paid caregiver for some of the hours she is with Tammy. Betty was not asking to be paid for all of the time she spent caring for Tammy, only for the number of hours the home care program would allow if home care workers were caring for her daughter.

According to Manitoba Health's home care policy at the time, family members were only eligible for financial compensation in exceptional circumstances, but the policy did not provide any further detail as to when exceptions might be made.

Betty's application to be her daughter's paid caregiver was rejected. She filed a complaint with the Manitoba Human Rights Commission believing that she was being discriminated against on the basis of family status.

Although most complainants do not have, or need legal representation, the Public Interest Law Centre took up Betty's case and Beverly Froese acted on her behalf.

"Sometimes one person can create change for many, and that is exactly what Betty did."

Dianna Scarth

"It is an affront to one's dignity to constantly struggle to keep a disabled child at home," Ms Froese says. "Betty's complaint was about recognizing the importance of family caregivers. It was about helping families by alleviating some of the financial hardship that comes with caring for a loved one with severe disabilities at home."

According to Ms Froese, individual Regional Health Authorities decide whether to make an exception and allow a family member to be paid for some or all of the care they provide.

After filing her complaint, Betty went through the human rights complaint process. After an intensive investigation took place, Betty's complaint was referred to mediation to see if it could be resolved. The Commission generally tries to resolve complaints through mediation first and if that fails then they will proceed to a hearing.

The settlement negotiations were successful and Betty's complaint was resolved in mediation. Manitoba's policy on engaging family members to provide non-professional home care was revised. The new Family Managed Care Policy clearly sets out the criteria under which families can be compensated for providing home care services to family members.

Acting Executive Director of the Manitoba Government Disabilities Issues Office Yutta Fricke says that "the Unrau case demonstrates how the Manitoba Human Rights Commission can help government re-examine policies and introduce systemic changes to better respond to unique or unanticipated circumstances."

It was a great victory for Betty and the many other family members finding themselves in similar circumstances.

Betty's individual complaint had a systemic resolution. "Sometimes one person can create change for many and that is exactly what Betty did," says Dianna Scarth.

For more information on the program and the eligibility requirements, Manitoba Health suggests contacting your local Regional Health Authority.

"...the Manitoba Human Rights Commission can help government re-examine policies and introduce systemic changes..."
Yutta Fricke

Spaces are now available for the winter/spring Manitoba Human Rights Commission workshops.

New workshop:

Accommodation of Employees with Mental Disabilities (note: Reasonable Accommodation in the Workplace is a prerequisite for this workshop)

Current workshops:

Recent Developments in Human Rights Law
How to Investigate a Human Rights Complaint
Human Rights in the Workplace
Harassment in the Workplace
Reasonable Accommodation in the Workplace
Human Rights Complaints — Myths, Fears and Realities

For details on these workshops call Sheila Hooper at 945-3009 in Winnipeg or 1-888-824-8621 or visit our website.